

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

Case No. 2:22-cv-0450

Hon. J.P. Stadtmueller

KAY X. YANG, and
XAPPHERE LLC,

Defendants,

and

CHAO YANG,

Relief Defendant.

**DECLARATION OF ROBERT M. MOYE IN SUPPORT OF
PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT**

I, Robert M. Moye, pursuant to 28 U.S.C. § 1746 declare as follows:

1. I am over 18 years of age, and I am employed as a Senior Trial Counsel in the Chicago Regional Office of the United States Securities and Exchange Commission (the "SEC") located at 175 West Jackson Boulevard, Suite 1450, Chicago, Illinois 60604. My official duties include representing the SEC in civil enforcement matters alleging violations of the federal securities laws.

2. I make this declaration in support of the SEC's Request for Entry of Default against Defendants Kay X. Yang and Xapphire LLC and Relief Defendant Chao Yang, based on my personal knowledge.

3. On April 13, 2022, I filed the SEC's Complaint in this matter, alleging that Defendants Kay X. Yang and Xapphire LLC violated the securities laws by raising at least \$16.5 million from approximately 70 investors through two fraudulent offerings. The Complaint also alleged that Relief Defendant Chao Yang received improper and illegal transfers of investor money from the Defendants even though he had no right to receive any investor funds. (*See* Docket No. 1)

4. Also on April 13, 2022, I sent defendants' counsel a copy of the Complaint, as well as draft Requests for Waiver of Service of Process, which would have provided the Defendants and Relief Defendant additional time to respond by waiving formal service of process. (*See* Ex. A, email dated April 13, 2022)

5. However, neither Kay X. Yang, nor Xapphire LLC, nor Chao Yang has executed the waivers I provided. No counsel has entered an appearance on behalf of the Defendants or Relief Defendant in this matter. Neither Kay Yang nor Chao Yang has attempted to appear *pro se*.

6. On April 27, 2022, I filed an Amended Complaint on behalf of the SEC. The allegations of the Amended Complaint are substantially similar to the allegations of the Complaint. (Docket No. 4)

7. The SEC retained a private process server and arranged for Defendant Xapphire LLC to be served personally via its registered agent at the registered agent's office in Dover, Delaware. On May 5, 2022, the SEC's process server delivered a Summons and a copy of the Amended Complaint to Charlotte Banice as Authorized Recipient for A Registered Agent, Inc., Xapphire LLC's registered agent, at the office of A Registered Agent, Inc. in Dover, Delaware. (*See* Docket No. 8)

8. The SEC also retained a private process server and arranged for Defendant Kay X. Yang and Relief Defendant Chao Yang to be served personally at their home in Mequon, Wisconsin. On May 7, 2022, the SEC's process server delivered a Summons and a copy of the Amended Complaint to Kay X. Yang at her home in Mequon, Wisconsin. The process server also delivered a Summons and copy of the Amended Complaint to Kay X. Yang as co-resident/spouse of Chao Yang at her home in Mequon, Wisconsin, which upon information and belief was the usual place of abode of Chao Yang. (*See* Docket Nos. 9, 10)

9. None of the Defendants have responded to the SEC's Amended Complaint.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 23rd day of June 2022.

/s/Robert M. Moya
Robert M. Moya

Mathie, BeLinda

From: Moye, Robert M.
Sent: Wednesday, April 13, 2022 10:25 AM
To: Jack Burkman
Cc: Mathie, BeLinda; Harris, Carl (Contractor)
Subject: SEC v. Yang, et. al., Case No. 22-cv-450 (E.D. Wisc.)
Attachments: 1. SEC v. Yang Complaint (4.13.2022).pdf; SEC v. Yang Request for Waiver of Summons (Kay Yang).pdf; SEC v. Yang Request for Waiver of Summons (Xapphire LLC).pdf; SEC v. Yang Request for Waiver of Summons (Chao Yang).pdf

Jack:

FYI, this morning the SEC filed a civil complaint in the E.D. Wisconsin against Kay Yang, Xapphire LLC seeking permanent injunctions, disgorgement, civil penalties and other relief. (Chao Yang is named as a relief defendant for purposes of disgorgement only.) I have attached a copy of the SEC's complaint for your convenience.

Based on your representation of the defendants, I am providing you with electronic copies of the SEC's Requests for Waiver of Summons. (We can also send them by US Mail if you prefer.) As you know, if you execute and return the waiver forms to me within 30 days, your clients will have 60 days from today to respond to the Complaint. However, if defendants do not agree to waive service, the SEC will serve them by means of a process server and will request reimbursement for our costs.

If you have any questions, or wish to discuss this matter further, please contact me.

Thank you. Rob

Robert M. Moye
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EXHIBIT

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